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IN THE
COURT OF APPEALS OF INDIANA

THOMAS L. GREENE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 03A01-0701-CR-58
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE BARTHOLOMEW CIRCUIT COURT
The Honorable Stephen R. Heimann, Judge
Cause No. 03C01-0508-FD-1769

July 16, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Thomas Greene appeals his sentence following his conviction for Possession of Marijuana, as a Class D felony, pursuant to a guilty plea. He presents a single issue for our review, namely, whether his sentence is inappropriate in light of the nature of the offense and his character.

We affirm.

FACTS AND PROCEDURAL HISTORY

On October 2, 2006, Greene pleaded guilty to possession of marijuana, as a Class D felony.[1] In exchange for that plea, the State dismissed a charge brought in Cause Number 03D02-0403-CM-398. At sentencing, the trial court identified four aggravators and no mitigators. The court sentenced Greene to three years with one year suspended. This appeal ensued.

DISCUSSION AND DECISION

Although a trial court may have acted within its lawful discretion in determining a sentence, Article VII, Sections 4 and 6 of the Indiana Constitution "authorize[] independent appellate review and revision of a sentence imposed by the trial court." Anglemyer v. State, No. 43S05-0606-CR-230, ___ N.E.2d ___, slip op. at 11 (Ind. June 26, 2007) (quoting Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006)). This appellate authority is implemented through Indiana Appellate Rule 7(B). Id. Under Appellate Rule 7(B), we assess the trial court's recognition or non-recognition of

[1] Greene did not include a copy of his plea agreement in the appendix on appeal. For purposes of this appeal, we assume that the agreement left sentencing open to the trial court's discretion. Greene does not indicate otherwise in his brief.

aggravators and mitigators as an initial guide to determining whether the sentence imposed was inappropriate. Gibson, 856 N.E.2d at 142 (Ind. Ct. App. 2006). However, "a defendant must persuade the appellate court that his or her sentence has met th[e] inappropriateness standard of review." Anglemyer, ___ N.E.2d at ___, slip op. at 15 (quoting Childress, 848 N.E.2d at 1080) (alteration in original).

Greene maintains that his sentence is inappropriate in light of the nature of the offense and his character. In particular, Greene describes the nature of the instant offense as "unremarkable." Brief of Appellant at 7. But the record shows that Greene was on probation when police found over thirty grams of marijuana in his bedroom.[2] As such, we do not agree with Greene's characterization of the nature of the offense.

With respect to his character, Greene contends that the trial court "did not consider" his expression of remorse for his conduct and guilt about his marijuana addiction. Further, Greene asserts that the trial court ignored his testimony that he was gainfully employed, provided care for his daughter, and was seeking treatment for his addiction. But the transcript of the sentencing hearing shows that the trial court considered those factors, and was not persuaded to impose a lesser sentence.

Indeed, as the trial court stated, Greene's criminal history consists of ten convictions, including five felony convictions.[3] Further, as the trial court found, Greene "has been placed on probation numerous times and has violated [probation]" and "has

[2] Greene did not provide a copy of the transcript from his guilty plea hearing. The information for the instant offense states that he was in possession of more than thirty grams of marijuana. Greene does not indicate that his guilty plea deviates from the charging information.

[3] Greene did not include a copy of his criminal history in his appendix on appeal, but he does not challenge the validity of the trial court's statement.

had opportunities for treatment previously." Appellant's App. at 44. Finally, despite another effort to seek treatment for his marijuana addiction, Greene admitted that he smoked marijuana in late December 2006, just two weeks before his January 2007 sentencing hearing. We cannot say that the two-year executed sentence is inappropriate in light of the nature of the offense and his character.

Affirmed.

RILEY, J., and BARNES, J., concur.